



W.P.(MD) No.26213 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

AND

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.(MD)No.26213 of 2022
and W.M.P.(MD)No.20391 of 2022

Mr.John Ignacy

... Petitioner

-Vs-

- 1.The District Collector,
Dindigul,
Dindigul District.
- 2.The Superintendent of Police,
Dindigul,
Dindigul District.
- 3.The Executive Engineer,
Public Works Department (WRO),
Periyakulam,
Theni District.
- 4.The Assistant Engineer,
Public Works Department (WRO),
Basin Division,
Nilakottai, Dindigul District.

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5.The Tahsildar,
Nilakottai Taluk,
Dindigul District.

6.The Inspector of Police,
Ammayanaickanoor Police Station,
Dindigul District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to remove the encroachment made in government Poromboke-Vari Odai situated in Survey No.620 in Oruthattu Village, Nilakottai Taluk, Dindigul District and restore the channel for free flow of water into the Theppankulam Tank situated in Survey No. 191 in Malaiyagoundenpatti Village and Survey No. 152/1 in Kullalakundu Village, Nilakottai Taluk, Dindigul District.

For Petitioner : Mr.R.J.Karthick

For R1, R3 & R5 : Mr.V.Nirmal Kumar,
Government Advocate.

For R2 & R6 : Mr.T.Senthilkumar,
Additional Public Prosecutor.

ORDER

[Order of the Court was made by R.MAHADEVAN, J.]

This Writ Petition has been filed, seeking a Writ of Mandamus, directing the respondents to remove the encroachment made in the Government

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Poramboke-Vari Odai situated in Survey No.620 in Oruthattu Village, Nilakottai Taluk, Dindigul District and restore the channel for free flow of water into the Theppankulam Tank situated in Survey No. 191 in Malaiyagoundenpatti Village and Survey No. 152/1 in Kullalakundu Village, Nilakottai Taluk, Dindigul District.

2. Heard Mr.R.J.Karthick, learned counsel appearing for the petitioner, Mr.V.Nirmal Kumar, learned Government Advocate, who takes notice for the respondents 1, 3 to 5 and Mr.T.Senthilkumar, learned Additional Public Prosecutor, who takes notice for respondents 2 and 6.

3. By consent of both parties, this Writ Petition is taken up for final disposal at the admission stage itself.

4. It is the claim of the petitioner that some unknown persons damaged the odai/channel in S.No.620, situated in Oruthattu Village and diverted the flow of water to a nearby tank viz., “Annasamudram Tank”. In view of the same, the Theppankulam Tank did not get any water. In this regard, though the petitioner

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made several representations to the respondents, seeking to remove the aforesaid encroachment, till date, the respondents have not taken any steps to remove the encroachment. Hence, the petitioner has filed this Writ Petition.

5. The fourth respondent has filed a status report, which reads as follows:

“The Theppankulam Tank is situated in Kullalakundu Village of Nilakottai Taluk in Dindigul District. The Tank receives water from Sirumalaiyar Reservoir after it is gets filled in between this there is one Tank called Annasamudhiram under the control of Ammaiyanayakkanur Panchayat. When the Sirumalaiyar Reservoir got filled during October 2022, the surplus water flow into the surplus channel which enter into the Theppankulam Tank. In the meantime, the public of Ammaiyanayakkanur Panchayat was diverted this flow into their tank called Annasamudram Tank by obstructing the flow with earthen bund.

While the WRD field staffs and the Assistant Engineer tried to remove the bund provided by the Ammaiyanakkanur Public, Law and Order created by them. The Tahsildar, Nilakkottai called for peace meeting, the Theppankulam Tank people not attended the peace meeting on 03.11.2022. In the meantime, the Ammaiyanakkanur public is supplied water after



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filling 3/4th of Annassamudhiram Tank and the flow has been diverted into the surplus channel and will flow into Theppankulam Tank.”

6. The learned Government Advocate appearing for the respondents 1, 3 and 5 submitted that necessary action will be taken to remove the encroachment, if any, in the place in question, by due process of law, within a time frame, for which, the learned counsel for the petitioner is agreeable.

7. Recording the above submission, this Writ Petition is disposed of with a direction to the authorities to conduct a proper survey in the place in question, in the presence of the petitioner and all the parties concerned. Thereafter, if the authorities find any encroachment in the place in question, the same shall be removed after affording sufficient opportunity to all the parties and by following due process of law. If the authorities require police protection, appropriate police protection shall be given by the jurisdictional Inspector of Police concerned, for removal of such encroachment. Such an exercise shall be completed within a period of twelve (12) weeks from the date of receipt of a



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copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D., J.] & [J.S.N.P., J.]
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Index : Yes / No
Internet : Yes / No

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